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RUEHWR/AMEMBASSY WARSAW 0360  
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RUEATRS/DEPT OF TREASURY WASHDC  
RUEBWJA/DEPT OF JUSTICE WASH DC

UNCLAS SECTION 01 OF 03 ABUJA 001163

SIPDIS

SIPDIS

DEPARTMENT FOR CLACROSSE (EB/IPR)  
DEPARTMENT PASS TO USTR (AGAMA)  
TREASURY FOR DPETERS  
JUSTICE FOR OMETZGAR  
USDOC FOR 3317/ITA/OA/KBURRESS  
USDOC FOR 3130/USFC/OIO/ANESA/DHARRIS

E.O. 12598: N/A

TAGS: ECON KIPR ETRD NI

SUBJECT: NIGERIA INL PROJECT PROPOSAL: TRAINING RELATED TO REDUCING  
OPTICAL DISC PIRACY

REF: A. SECSTATE 55928

- 1B. ABUJA 942
- 1C. ABUJA 683
- 1D. LAGOS 357

11. Summary. Embassy Abuja submits this proposal to obtain funds from the 2007 IPR Enforcement Training Funds Program, per ref tel A. Embassy Abuja proposes a training program in Nigeria for officials from the Nigerian Copyright Commission (NCC), the Nigerian Economic and Financial Crimes Commission (EFCC), judges, prosecutors, police and customs officials. The subject of the training will be reducing optical disc (OD) piracy, with a focus on recently promulgated regulations related to licensing of OD factories. The goal will be to eliminate factories that are producing illegal copies of U.S. copyrighted works. The estimated program budget will be \$47,780. End Summary.

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Background

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12. Nigeria is the largest market in Africa, and the U.S. copyright industry estimate in 2006 that the record and music piracy rate was 95%, and business software piracy rate 82%. Estimated trade losses in 2006 due to copyright piracy were \$119 million, and that figure does not include losses due to piracy of motion pictures or entertainment software. These losses have grown dramatically in recent years: for example, losses due to business software piracy climbed from \$4.3 million in 2002 to \$59 million in 2006.

13. One of the principal reasons for this piracy explosion is the recent proliferation of OD factories in Nigeria. There are 15 known factories and 52 production lines capable of producing well over 100 million discs a year. Nigeria has become an "optical disc piracy hotspot."

14. Many of the plants are operated by Asian pirates displaced by enforcement activities elsewhere. The output of these plants is intended not only for Nigeria but also for export to the region. Some estimates put the current capacity of these plants at over 180 million discs a year, more than Nigeria's population of 140 million. Not surprisingly, it has been reported that pirated product from Nigeria has been found in Algeria, Senegal, Ghana, Zambia and South Africa. The industry also reports that people come from all over West Africa to buy pirated discs at the Alaba International Market in Lagos.

15. Overall the GON's efforts to stem this tide have been unimpressive, but improving. The NCC has conducted raids of illegal OD factories over the past few years, and recently, in December 2006, promulgated regulations that control production of optical discs. These regulations are fairly comprehensive, and an unusual step for the region. The regulations require that all OD factories obtain a license from the NCC, obtain approval from the NCC prior to importing or exporting ODs or OD manufacturing equipment, mark every OD manufactured with a prescribed code, and keep certain records. They also empower the NCC to conduct inspections of factories, revoke licenses, and assess penalties for violations. The chief of the newly formed Nigerian Intellectual Property Commission ("NIPCOM"), Adebampo Adewopo, was formerly the head of the NCC, and is committed to combating piracy (See reftel B). The GON has expressed its openness to cooperation and training (See reftels B, C and D). The International Federation of the Phonographic Industry ("IFPI") has also been successful at enlisting the EFCC into the fight against OD piracy, by tying OD piracy to the EFCC's campaign against corruption and scams.

16. The Mission believes this is an opportune moment for training related to OD enforcement in Nigeria. The recent OD regulations provide momentum, a new enforcement structure, and the NCC and EFCC have the will and manpower to improve enforcement. With additional training, the GON could significantly reduce illegal OD production in Nigeria.

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#### Project Description

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17. The Mission proposes a training program for law enforcement officials and copyright policymakers that will focus on reducing OD piracy, with an emphasis on enforcement of the new OD regulations.

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The program would be two days in Abuja (where most of the policymakers are located), and two days in Lagos (where most of the factories are located).

18. The program would include in each location, 30 participants comprising five each from the NCC; Ministry of Justice prosecutors; judges; police; EFCC; and Customs. There would be four USG trainers - two from USDOJ; one from the U.S. Copyright Office; and one from U.S. Customs. There would also be between one and three industry trainers from Microsoft; IFPI; and/or Hewlett Packard. In addition, GON IP officials such as DG Adewopo of NIPCOM could also participate on the panels.

19. The following topics would be reviewed:

- The importance of controlling optical disc piracy;
- The damage caused by OD piracy to copyright industries and the economy in general, such as loss of tax revenues;
- The damage widespread infringement does to incentives to invest in creative industries in Nigeria; and
- Introduction to the 2006 OD regulations.

10. Topics for police and customs only would be:

- How to investigate optical disc piracy, including how to connect street vendor's product with specific factories and best practices for control of evidence;
- Best practices for prosecution of illegal OD manufacturing;
- How to enforce OD regulations at the border; and
- Forensic methods of determining the factory that produced a particular optical disc.

11. Topics for judges and policymakers only would be:

- Ways that Nigeria's new regulations could be improved;
- Ways civil law enforcement can supplement a criminal enforcement regime; and
- Ways to improve laws regarding border control.

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Budget

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¶12. Total amount for the proposed program is \$47,780, and broken down as shown below.

Abuja (two days)  
-- \$1,500 tea break and snacks for two days  
-- \$1,500 training materials  
-- \$1,000 miscellaneous expenses

Lagos (2 days)  
-- \$5,000 conference hall & equipment rental  
-- \$500 tea break for two days  
-- \$1,500 training materials  
-- \$1,000 miscellaneous expenses

USG personnel  
-- \$35,780 (\$8,945 per person x 4).

Breakdown per person:

-- Airfare: \$7,000  
-- Abuja hotel & food: \$618 (\$309 per day x 2)  
-- Lagos hotel & food: \$716 (\$358 per day x 2)  
-- two travel days food: \$211 (one day at Abuja rate (\$116) plus one day at Lagos rate (\$95))  
-- Incidentally: \$400

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Project Evaluation Metrics

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¶13. Targeted to U.S. Priorities. Nigeria is the most populous country, and largest market, in Africa and the piracy rates for copyrighted works are extremely high-and illegal OD factories are a significant driver of the economy in pirated goods. As noted above, trade losses due to copyright piracy were estimated to be \$119 million in 2006, and this figure did not even include motion pictures or entertainment software. Moreover, the massive OD production in Nigeria is contaminating the whole African region with illegal product.

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¶14. Strong Support of Host Government. As discussed above (See reftels B, C and D), the GON has expressly welcomed IPR training. NIPCOM has volunteered to cover the costs of a site for the training in Abuja. DG Adewopo recently reiterated previous requests for USG assistance. The political will of the GON to address the OD factory problem is evidenced by the fact that Nigeria took the initiative to promulgate the OD regulations. Moreover, this proposal supports the elements within the GON that are most committed to making change, such as DG Adewopo of NIPCOM.

¶15. Addresses Key Gaps or Is a Fundamental Part of a Strategy to Improve IPR Enforcement. The new regulations are in place, but the NCC has little experience enforcing them. Training by USG personnel will help fill the gap in the strategy of targeting copyright piracy by shutting down the factories that make the ODs.

¶16. Has the Capacity To Make Near Term, Measurable Success, with Clear Benchmarks. Fifteen OD factories have already been identified. Following this training, the treatment of those factories can be reviewed and progress can be measured by how (1) how many have been licensed; (2) how many have been inspected, and how often; and (3) how many have been sanctioned or closed. NCC inspections of these factories can occur in the short term following the training.

¶17. Has Strong Oversight and Accountability Measures. The training will be entirely in the hands of Embassy Abuja, and all expenditures and accounting will be handled through post. Embassy Abuja will also report on the training after it occurs.

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COMMENT

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¶18. The Nigerian government's willingness to participate and host the training is an example of the strong support this training will

receive. Where possible, it is generally better to move up the supply chain in copyright enforcement; one does not have to chase after small street vendors of illegal discs if the vendors are cut off from their wholesale supplies of discs. The recent surge in OD factories in Nigeria presents many problems for U.S. rightholders, but, the GON's increased regulatory attention to this problem, presents a rare opportunity for the USG to assist regulatory and enforcement agencies to cut off significant supply. The proposed training program would significantly advance the GON's capacity for achieving this goal, and would also signal to the GON that the USG is serious in its concern over this problem.

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